

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 04 LA PAZ 002814

SIPDIS

STATE FOR WHA/AND (DBOYLE), WHA/EPSC, AND EB/ESC/IEC/EPC
STATE ALSO FOR EB/IFD/OMA (KMOSS)
STATE PASS AID (LAC/SA)
STATE PASS USTR (BHARMAN)
STATE PASS TDA (AANGULO)
SANTIAGO FOR FCS (RDELAMBERT)
BUENOS AIRES FOR TREASURY (MHAARSAGER)
COMMERCE FOR JANGLIN
ENERGY FOR GWARD
TREASURY FOR RTOLOUI AND DDOUGLASS
NSC FOR CBARTON
USCINCSO FOR POLAD

E.O. 12958: DECL: 09/02/2014

TAGS: [EPET](#) [ECON](#) [SOCI](#) [EFIN](#) [EINV](#) [ENRG](#) [PGOV](#) [PREL](#) [BL](#)

SUBJECT: PRESIDENT MESA AND CONGRESS TO WORK TOGETHER ON
NEW HYDROCARBONS LAW

REF: A. LA PAZ 2694

[B.](#) LA PAZ 2692

Classified By: ECONOFF AMANDA CRONKHITE FOR REASONS 1.4(B) AND (D).

[¶](#)11. (C) Summary: The Chamber of Deputies' Economic Development Committee has proposed nullifying all of the contracts signed under the current (soon-to-be-invalid) hydrocarbons law. This follows three days of intense meetings in the MAS/NFR-led committee. Minister of Economic Development and head of the economic cabinet Horst Grebe told the Ambassador that passing a new law fast was key to ensuring Bolivia's access to potential export markets, while private sector analysts worried that exporting through Peru (as the Government wants to do) was impossible. Subsequently, after weeks of insisting that Congress pass and the private sector support its draft "short" law, the Executive and Congress agreed to work together on one longer law. Some industry representatives acknowledge that they could probably operate profitably with the new taxation rates proposed by the GOB, but that further investment in the sector would be unlikely. Finally, the private sector remains relatively isolated, talking sporadically with the GOB (with another videoconference scheduled for September 3), but still not fully trusting its Government interlocutors.
End Summary.

A RADICAL PROPOSAL

[¶](#)12. (SBU) The MAS/NFR-led Economic Development Committee in the Chamber of Deputies held weekend meetings to determine a course of action with respect to President Carlos Mesa's proposed referendum (hydrocarbons) law. On August 31, calling natural gas a national strategic resource, the Committee made a recommendation that the current hydrocarbons law be repealed. Despite arguments to the contrary from the counsel for Bolivia's state-owned hydrocarbons company, Yacimientos Petroliferos Fiscales Bolivianos (YPFB), the committee interprets this to mean the nullification of contracts signed under the previous law, as the legal framework providing for the contracts will be gone.
(Comment: This is a committee action that has yet to be debated by the full Chamber of Deputies. Even were the more radical lower House to pass this recommendation, we would be surprised to see the idea get past the more conservative Senate. End Comment.) The Committee also recommended that the GOB retake ownership of hydrocarbons at the wellhead (vice underground) and force companies to migrate to Production Sharing Contracts (PSCs). Private sector sources have told us that they could be open to PSCs. Migrating, however, would be difficult as the GOB and each company would have to come to an agreement about how much investment the companies had undertaken. Hydrocarbons executives expect that the YPFB would be unwilling to consider unsuccessful investment -- i.e., dry wells -- when considering how much to chip in, thereby leaving the companies holding the bag for all of the risks they have already incurred, without feeling the full benefits of their investments.

[¶](#)13. (C) Minister of Economic Development and head of the economic cabinet Horst Grebe commented to the Ambassador on August 31 that the situation with Congress and the hydrocarbons law remained "complicated." He noted that Bolivia had to triple its gas exports to pull itself out of poverty and that only private investment would make that possible. He said that the Executive is looking to increase revenues in the short-term without killing mid- and long-term investment. "We lost the market in California, and we run the risk of losing the market in Mexico," Grebe commented, skeptical about the likelihood of any law being passed in

September and worried that one might not be passed before the Mexican call for bids for a liquefied natural gas (LNG) project in November. That said, Grebe was hopeful that relations with Congress would improve in the following few days, making Congress more open to the GOB's plan to first submit a short referendum law before fleshing out a full hydrocarbons law with the assistance of World Bank-funded tax experts. (Comment: The World Bank Resident Representative (ResRep) in Bolivia told us that the GOB has selected three names from the World Bank's short list. It is now the GOB's responsibility to contact those people, convince them to agree to the project and figure out when they will come to Bolivia. End Comment.)

CONSULTING WITH THE PRIVATE SECTOR

14. (C) On August 30, Minister of the Presidency Jose Galindo, Petroleum Minister Torres and Grebe participated in a videoconference with private sector representatives. Galindo reportedly did most of the talking, lobbying the private sector to jump on the short law bandwagon and noting that it would be "naive" to expect Congress to be more pro-business than the administration. The private sector then argued that the a short law would create a legal vacuum and that the proposed Complementary Tax on Hydrocarbons (ICH) would discourage investment. In response to the GOB's plea that the private sector stop talking about any Chilean export route, as only a Peruvian export route is politically feasible, one executive commented that no company will put money into any Pacific export route for at least four to six years because "with all this mess, no buyer will ever believe that there is stability in Bolivia." To the private sector's surprise, the Ministers reportedly did not even flinch. Another executive commented to the Ambassador that, even in the context of an acceptable law, no investment will come to Bolivia until the Constituent Assembly process finishes, which take two years.

15. (C) Grebe also met privately on August 27 for nearly two hours with the head of the Hydrocarbons Chamber who told us that Grebe "almost died of anger" when he heard that Torres has been working on his own draft law. Torres did little talking during the August 30 videoconference, and Torres' technical staff spent August 31 working with the private sector to better understand each other's projections. The head of one company thought that the Minister's consultants were being swayed by reason, but cautioned that it would be necessary to wait and see what political decision was taken, as technical facts can often be ignored. On August 31, a senior YPFB executive was fired for writing what was supposed to be a private memo about the inviability of a Peruvian export route. The Ministers have requested updated figures before the next GOB-private sector videoconference, scheduled for September 3.

CONGRESS AND PRESIDENT AGREE TO WORK ON ONE LAW

16. (C) After weeks of wrangling, Congress and the Executive agreed September 2 to work together on a single comprehensive law. With that, the GOB formally abandoned its petition that Congress pass the Executive-drafted "short" (Fulfilling the Referendum) bill, but insisted that the language of that bill be incorporated wholesale into the single longer law. Congressional leaders have agreed in principle to this condition. In addition, both sides agreed that Congress, led by a mixed Senate-Chamber of Deputies economic development commission, will assume primary responsibility for elaborating the full bill.

17. (C) Minister of the Presidency Galindo told the Ambassador on September 2 that, because details of the longer law still need to be worked out, it was not likely to be passed until sometime in October (vice late September.) Galindo explained that the agreement with Congress is that taxation rates contained in the Executive's draft law would remain unchanged. More troubling, however, is Galindo's view that across the political spectrum there is widespread support for scrapping existing petroleum contracts and forcing companies to renegotiate with the GOB. Galindo remains hopeful, but not optimistic, that the GOB can convince companies to voluntarily migrate from existing contracts to new contracts which would be in compliance with the new law. In earlier discussions with us, the Presidents of the lower and upper houses, Mario Cossio and Hormando Vaca Diaz, insisted that Congress needed to shape a sound law without the counterproductive pressure of artificial deadlines. As Cossio said: "We need for this law to remain in place for a long time, and not be revisited and revised every two years. For this reason, we need to take the time to get it right." He speculated that doing this in less than one month was unrealistic.

COMMENT

18. (C) While the agreement between Mesa and the Congress to elaborate a single law is an encouraging development, the private sector and the GOB continue to be on different pages. While Mesa was riding a popular wave of support following the Referendum, Congress seems to have captured some of this popular support as the Congress, and not Mesa, appears to be defending the long-term interests of the people.

Increasingly, Mesa is viewed as defending the petroleum companies, which is not a popular place. While some private sector representatives lament that production sharing contracts are not feasible, Presidential Delegate for Capitalization Franscesco Zaratti has convinced Grebe that companies will migrate to new contracts. Some industry representatives acknowledge that they could probably operate profitably with the new taxation rates proposed by the GOB, but that further investment in the sector would be unlikely. The private sector is talking to representatives of the MNR and MIR parties, but neither has power with the people nor Mesa's ear. The Embassy will continue to emphasize the sanctity of contracts and the importance of a business-friendly (or at least business-acceptable) law for Bolivia's economic future. End Comment.

GREENLEE